



## THE NAVAJO NATION

OFFICE OF THE PRESIDENT & VICE PRESIDENT

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# Navajo President Joe Shirley, Jr., vetoes legislation that would elevate Legislative Counsel to level of Navajo Attorney General

**WINDOW ROCK, Ariz.** – Navajo Nation President Joe Shirley, Jr., on Saturday vetoed legislation that would increase the authority of Navajo Nation Council's lawyer to that of the Navajo Attorney General.

The President said the Office of Legislative Counsel Amendments Act would create obvious conflicts of interest and problems for the Navajo Nation in state and federal courts.

"Leaving the political reasons Council adopted this resolution aside, this resolution is faulty on legal grounds and would obviously weaken the Navajo Nation in the area it needs the greatest strength," President Shirley said in his veto message to Navajo Nation Council Speaker Lawrence T. Morgan.

"The Navajo Nation needs one lawyer charged with prosecuting and defending all legal actions of the Nation. This ensures uniformity and consistency," he said.

The amendments would "divide the legal advice and representation of governmental entities" between the two offices, he said.

They would expand the authority of the Office of Legislative Counsel to represent the Council and any Legislative Branch entity in litigation.

That would create inconsistencies in litigation, and would damage the sovereignty of the Nation and future development of Navajo law, the President said.

"If both the Attorney General and the Chief Legislative Counsel are authorized to engage in litigation, there

would be two Chief Legal Officers of the Navajo Nation, each with the ability to sue, defend, and settle suits," he said. "If the two Chief Legal Officers disagree, or if the Attorney General is simply not consulted before the Chief Legislative Counsel acts in litigation, the Nation's sovereignty would be greatly undermined by inconsistent positions asserted before state and federal courts."

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– Navajo Nation President Joe Shirley, Jr.

The President also said the amendments would compromise the development of Navajo law before the Navajo courts.

"One could not overstate the importance of having a single decision-maker who has the overall best interest of the Navajo Nation in mind for litigation, specifically litigation strategy and litigation coordination," he said.

He said the Attorney General represents the entire Navajo Nation and takes into consideration the needs of all three branches and the 110 chapters. By comparison, the Office of Legislative Counsel represents only the Legislative Branch and does not take into consideration the needs of the entire Navajo Nation.

The President said the amendments would lead to a duplication of work, and that the Office of Legislative Counsel is not designed to handle litigation.

An area of likely conflict is the Legislative Counsel's representation of the Navajo Board of Election Supervisors. As it is now, the Office represents the Board, the Navajo Election Administration, and the Council.

The President said delegates could file grievances against the Board for alleged violations of the election law if delegates are disqualified as candidates, if an election results in the loss of their Council seat, or if Navajo citizens file recall petitions against them.

Under the proposed amendments, complaints against delegates and actions by the Board of Election Supervisors against Council delegates would be addressed only through the Office of Legislative Counsel. However, there is nothing in the proposed amendments to deal with this clear conflict.

This legislation arose after Attorney General Louis Denetsosie surprised Council delegates by recommending that Special Prosecutor Alan Balaran investigate the use of discretionary funding by Council delegates to. Mr. Balaran was named special prosecutor on Jan. 20 after a three-judge panel of the Window Rock District Court reviewed three applications.

On Dec. 28, the Attorney General asked the special division of the court to appoint a special prosecutor to

investigate the tribe's contracts with OnSat Network Communications Inc., a \$2.2 million loan guarantee to BCDS Manufacturing Inc., and payments from the Navajo Nation Council's discretionary fund to family members of several legislative branch employees.

Mr. Denetsosie asked the court to assist him to obtain \$500,000 from the Budget and Finance Committee and the controller's office to pay the special prosecutor but no funding has yet been appropriated.

He said he is bound to act on information that a violation of the tribal code may have been committed by a tribal official.

He said after the Navajo Times reported that four employees of the legislative branch had family members received more than \$100,000 in assistance from the discretionary fund, his office conducted its own investigation and found grounds to recommend it be further investigated by the special prosecutor.

It is believed that if the special prosecutor remains unfunded, the investigation into the use of discretionary funds, OnSat and BCDS will be dropped. Should that occurs, it is believed the Council will sponsor legislation to further empower the Office of Legislative Counsel to hire a special prosecutor to re-open an investigation of OnSat and BCDS but not the use of discretionary funds.

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